

DISTRICT OF NEVADA

Case No.: 2:18-cv-1108-APG-GWF

ORDER

Defendant.

This action is a *pro se* civil rights complaint filed under 42 U.S.C. § 1983 by a former inmate. On January 16, 2019, this Court issued an order directing Plaintiff to file his updated address with this Court within 30 days. ECF No. 3. The 30-day period has now expired, and the Plaintiff has not filed his updated address or otherwise responded to the Court's order.

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party’s failure to prosecute an action, failure to obey a court order, or failure to comply with local rules. *See Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (dismissal for failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for lack of prosecution and failure to comply with local rules).

1 In determining whether to dismiss an action for lack of prosecution, failure to obey a
2 court order, or failure to comply with local rules, the court must consider several factors: (1) the
3 public's interest in expeditious resolution of litigation; (2) the court's need to manage its docket;
4 (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on
5 their merits; and (5) the availability of less drastic alternatives. *Thompson*, 782 F.2d at 831;
6 *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at 130; *Ferdik*, 963 F.2d at 1260-61;
7 *Ghazali*, 46 F.3d at 53.

8 In the instant case, the first two factors, the public's interest in expeditiously resolving
9 this litigation and the Court's interest in managing the docket, weigh in favor of dismissal. The
10 third factor, risk of prejudice to the defendants, also weighs in favor of dismissal, since a
11 presumption of injury arises from the occurrence of unreasonable delay in filing a pleading
12 ordered by the court or prosecuting an action. *See Anderson v. Air West*, 542 F.2d 522, 524 (9th
13 Cir. 1976). The fourth factor – public policy favoring disposition of cases on their merits – is
14 greatly outweighed by the factors in favor of dismissal discussed herein. Finally, a court's
15 warning to a party that his failure to obey the court's order will result in dismissal satisfies the
16 "consideration of alternatives" requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-
17 33; *Henderson*, 779 F.2d at 1424. The Court's order requiring Plaintiff to file his updated
18 address within 30 days expressly stated: "IT IS FURTHER ORDERED that, if Plaintiff fails to
19 timely comply with this order, the Court shall dismiss this case without prejudice." ECF No. 3.
20 Thus, Plaintiff had adequate warning that dismissal would result from his noncompliance with
21 the Court's order to file his updated address within 30 days.

22 It is therefore ordered that this action is dismissed without prejudice based on Plaintiff's
23 failure to file an updated address in compliance with this Court's January 16, 2019 order.

1 It is further ordered that the application to proceed *in forma pauperis* (ECF No. 1) is
2 denied as moot.

3 It is further ordered that the Clerk of Court will enter judgment accordingly.

4 Dated: February 22, 2019.

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8 ANDREW P. GORDON
9 UNITED STATES DISTRICT JUDGE
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